

1 BUREAU OF LAND MANAGEMENT

197990

2 PUBLIC HEARING

3 Nuiqsut, Alaska

4  
5 In Re:

6 ANILCA 810 Analysis for the )  
7 Amended IAP/EIS of the Northeast )  
NPR-A )  
\_\_\_\_\_)

8 TRANSCRIPT OF PROCEEDINGS

9 Nuiqsut, Alaska  
10 Kisik Community Center  
December 1, 2004  
11 5:20 p.m.

12 APPEARANCES:

13 STACY McINTOSH: Bureau of Land Management  
Fairbanks, Alaska

14 DAVE YOKEL: Bureau of Land Management  
Fairbanks, Alaska

15 STEVE ELLSWORTH,  
16 Hearing Officer: ENSR International  
Anchorage, Alaska

17  
18 ALSO PRESENT:

19 KELLEY HARTLIEB,  
20 Court Reporter: Metro Court Reporting  
Anchorage, Alaska

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1 P R O C E E D I N G S

2 (On record)

3 MR. ELLSWORTH: Well, good evening. We're  
4 here today -- we're going to call this meeting to order  
5 especially for you folks. So I'm going to just read this like  
6 it was the regular scheduled meeting.

7 This is for the record that we'll call this meeting to  
8 order. My name is Steve Ellsworth and I'll be conducting the  
9 meeting tonight as the Hearing Officer. Tonight's meeting is  
10 a formal hearing held for the purpose of providing you, the  
11 public, the opportunity to make oral comments on the Bureau of  
12 Land Management's ANILCA 810 Analysis for the Northeast  
13 National Petroleum Reserve - Alaska Draft Amended Integrated  
14 Activity Plan/EIS, Environmental Impact Statement. And this  
15 would include any mitigation measures that you think should be  
16 incorporated in the Record of Decision in order to reduce any  
17 impacts to subsistence use.

18 Your comments tonight will be recorded and transcribed  
19 verbatim by the court reporter, Kelley Hartlieb. All comments  
20 provided will be compiled and analyzed and considered by the  
21 Bureau in preparing the Final Environmental Impact Statement  
22 which is due to be released in January. This hearing tonight  
23 is one of a series that we're doing in Alaska communities  
24 including Anaktuvuk Pass, Atkasuk and Barrow as well as  
25 Nuiqsut.

4

1           So that we accurately record your comments tonight, I  
2 will call the names of those who wish to speak and invite you  
3 to come up to the microphone. But when you come up, please  
4 sit over there, close to the microphone and provide your name  
5 and any organization that you represent, and then go ahead and  
6 make your comments. And if you have any written comments, I  
7 would ask you to provide them to Kelley so we will get them in  
8 the record and they will be included in the record of the  
9 hearing. So with that.....

5

10           MS. NUKAPIGAK: When is your deadline for the  
11 written comments?

6

12           MR. ELLSWORTH: For the written, well, we  
13 don't really have any -- we don't really have a mechanism to  
14 accept written comments now. We've had a comment period on  
15 the FEIS, itself. And we're actually just taking comments at  
16 the meeting.

7

17           But would anybody like to speak? Again, I would just  
18 ask that you step up here and state your name, please.

19           STATEMENT BY DORA NUKAPIGAK

008  
Caribou

20           My name is Dora Nukapigak, I'm with the Kuukpik  
21 Subsistence Oversight Panel. I've been a subsistence hunter  
22 since I was eight, when we moved here from Barrow. And my  
23 Preferred Alternative is Alternative A because it has the  
24 protection of our caribou, our goose molting areas. And  
25 the other thing I wanted to say is, I don't see -- within the

008 (Cont'd)  
Caribou

1 satellites, I don't see any caribou -- what do you call those?  
2 Gosh, that slipped my mind -- critical loops from anywhere  
3 from CD-5 to CD-7. That's -- I think it's very important that  
4 they have those in place. It's very obvious in the  
5 summertime; we could see where the caribous, you know, cross  
6 and go to their insect relief area. And I sure would like to  
7 see that being implemented with -- I know that, because the  
8 height of the pipeline went from five to seven feet, I know  
9 that maybe that's why they're not putting any vertical loops.  
10 Maybe they're thinking it's -- the pipeline is high enough.  
11 But I think, for the migration of the caribou, that there be  
12 some vertical loops for the satellites. And for the future of  
13 development in our -- the west of us, I think that's very  
14 important that they do those, the seven foot average plus the  
15 vertical loops, or maybe some buried pipeline.

9

16 And this, I know, is a very -- going to be very touchy  
17 for the village, this meeting tonight. And I just hope that  
18 they be heard, you know, because it's our resources that we're  
19 looking at. There's a lot of fishers over here. We depend on  
20 the caribou for food year-round.

10

21 And for the protection of our rivers and our lakes, I  
22 think that those 79 stipulations be in place, that I don't  
23 think they should combine any of them. It wouldn't work that  
24 way. And that's just my comments tonight, today. And I hope  
25 that those 79 stipulations stay in place because it protects

1 us subsistence hunters. And that they be strict, you know,  
2 with development because we're -- you know, I don't want to  
3 have to go and get a caribou that's sick or maybe there are  
4 some -- they've been eating oil or something. But it's for  
5 the protection of the habitat and all the ecosystem. So  
6 that's all I have to say.

11 MR. ELLSWORTH: Thank you very much. Anybody  
8 else? Okay.

12 UNIDENTIFIED SPEAKER: I can speak tonight.

13 MULTIPLE SPEAKERS: (Indiscernible -  
11 simultaneous speaking).

14 MS. MCINTOSH: We do have your comments on  
13 record, though, so if you get, you know.....

15 MS. NUKAPIGAK: Yeah, I might add something  
15 else (indiscernible - away from mic).

16 MR. ELLSWORTH: Well, thank you very much.

17 MS. MCINTOSH: Thank you.

18 (Off record)

19 (On record)

18 MS. MCINTOSH: All right, we're going to start  
21 this ANILCA 810 hearing for the Northeast NPR-A Plan  
22 Amendment. And before we begin, I just wanted to say that  
23 this is actually -- the reason why we're coming back to the  
24 four communities that were analyzed in the ANILCA 810  
25 Evaluation is because, after the round of meetings that

19

1 occurred when the Draft Plan came out in September, the North  
2 Slope Borough Mayor's office sent a letter to the BLM stating  
3 that they were unclear as to the fact that these Draft  
4 meetings were also ANILCA 810 hearings, and they requested  
5 that the hearings be held again. So we, in an effort to be a  
6 good neighbor and a good partner with the North Slope Borough,  
7 have been re-holding the ANILCA 810 hearings in all of the  
8 potentially affected communities, so in Anaktuvuk Pass,  
9 Atqasuk, Barrow and here in Nuiqsut. And we do have to  
10 apologize; we've tried several times to come to Nuiqsut in the  
11 past month and there have been several where the weather was  
12 just bad, or everyone in the community had something else to  
13 do, there was a conflict with another meeting. So we've  
14 finally made it here.

20

15 So what we're here today to talk about is the ANILCA  
16 810 Analysis that accompanied the Draft EIS for the Northeast  
17 Plan Amendment. And the purpose of this is to go over the  
18 findings as presented in the ANILCA 810 Analysis so everyone's  
19 aware of what they are, and also to get potential mitigation  
20 measures from community representatives, from the people, that  
21 could be incorporated into our Final Alternative and into the  
22 stipulations. So that's a real focus on this, is to get  
23 additional mitigation measures that may help in reducing  
24 impacts to subsistence.

21

25 Of course -- can you shut those lights down, maybe, so

1 it's easier to see this again? And this is just to show that  
2 we're talking, yet again, about the Northeast NPR-A. As you  
3 recall, in 1998, that's when the first Record of Decision was  
4 released that allowed oil and gas drilling in the northeast  
5 area of the NPR-A. Most recently, we've also done a Plan for  
6 the Northwest Planning Area of the NPR-A and that was  
7 finalized in January of this year. And everyone knows about  
8 the Alpine Satellite Development EIS. So all of these kind of  
9 plans have been going a little bit concurrently.

22

10 Basically, with the President's Energy Policy, one of  
11 the directions within it was for the Bureau of Land Management  
12 to re-look at the northeast area of the NPR-A to see whether  
13 or not there were additional lands that could be opened for  
14 oil and gas leasing, yet still keep all of the resources that  
15 had been identified as being sensitive or whatever protected  
16 within it. So that is what this whole process is doing; we're  
17 following our directions from Washington and we are re-looking  
18 at the northeast area of the NPR-A to see whether or not there  
19 are lands that were made unavailable in 1998 that now could be  
20 made available for oil and gas leasing while still protecting  
21 the values that were identified in the 1998 Plan.

23

22 So what we're specifically talking about is the ANILCA  
23 810 Evaluation. And ANILCA basically is how the federal  
24 government in Alaska manages subsistence and subsistence use  
25 on federal public lands; it kind of specifies the parameters.



1 And within Title VIII of ANILCA, Section 801 states that the  
2 purpose of Title VIII of ANILCA is to provide for the  
3 opportunity for continued subsistence uses on the public lands  
4 by Native and non-Native rural residents. 802 states the  
5 actual policy of Congress with regard to this, and that is  
6 that the utilization of public lands in Alaska is to cause the  
7 least adverse impact possible on rural residents who depend on  
8 subsistence uses.

24

9 And then Section 810 requires an evaluation to be  
10 completed before any Land Use decision. Because we are trying  
11 to make the decision to allow more lands to be available for  
12 oil and gas, we have to do an ANILCA 810 Evaluation because  
13 we're making a Land Use decision. So it has to be done.  
14 Every time the federal government decides to do something on  
15 any of their lands, they have to do an ANILCA 810 Evaluation.

25

16 Okay. Now, I'll just briefly talk about the process.  
17 When we do an ANILCA 810 Evaluation, we have an internal kind  
18 of guidelines that we follow. And a lot of these guidelines  
19 have been specified by law, by court cases that have occurred.  
20 When the first 810 Evaluations came out in 1983, several of  
21 them ended up going to court because there were some things  
22 that weren't completely defined within Section 810, but these  
23 court cases further defined it. And so our policy in  
24 conducting ANILCA 810 Evaluations today kind of follows the  
25 results of all of these court cases.

26

1           The first step in the ANILCA 810 Evaluation process is  
2   to evaluate the effect of the proposed action on subsistence  
3   uses and needs using the following criteria. So we're  
4   supposed to look specifically at three main things: the  
5   reduction in the availability of subsistence uses --  
6   subsistence resources caused by a decline in the population or  
7   amount of harvestable resources. So this is whether or not  
8   the proposed action would reduce any populations that  
9   subsistence users are relying upon, reduction in population.

27

10           The second thing we look at is reduction in the  
11   availability of resources caused by an alteration of their  
12   normal location and distribution patterns. So that's  
13   displacement. That's the second thing we need to look at,  
14   whether or not subsistence resources will be displaced. So  
15   these first two things are focussing on the actual resource.

28

16           Then the third one that we look at, limitations on  
17   access to subsistence resources including from increased  
18   competition, is whether or not the user would be impacted,  
19   whether or not the user would not have access to the resources  
20   that are out there. So these are the three primary things  
21   that you look at with regard to a proposed Land Use action as  
22   to whether or not subsistence would be impacted.

29

23           The second step is to evaluate the availability of  
24   other lands for the purpose sought to be achieved. And this  
25   situation -- I'll go through for each one of the alternatives

1 what the purpose, what the Land Use decision is. And the  
2 third one is to evaluate other alternatives which would reduce  
3 or eliminate the proposed action from lands needed for  
4 subsistence purposes.

30 5 So when you go through an ANILCA 810 Evaluation, for  
6 each alternative you have to follow these three steps. And  
7 within the 810 Evaluations that have been handed out or made  
8 available, you'll see that each one of the sections kind of  
9 goes through answering each one of those questions. All of  
10 the evaluations for each alternative have to conclude with a  
11 distinct finding that the proposed action would or would not  
12 significantly restrict subsistence use.

31 13 So looking at the 1998 Plan, looking at our now-Plan  
14 Amendment for the northeast area, the No Action Alternative  
15 which is Alternative A -- and the reason why it's called the  
16 No Action Alternative is because this would be the alternative  
17 that we would have if we did no -- nothing new in the  
18 Northeast NPR-A. So the proposed action or use for this one  
19 is nothing, no action. It would remain with all of the  
20 setbacks, the protections, the stipulations, the areas not  
21 available for oil and gas leasing as specified in the initial  
22 1998 Plan, that would still be retained.

32 23 So as you can see, here is the Final 1998 Record of  
24 Decision. This is what we're currently operating under in the  
25 Northeast NPR-A. The green area at the top is not available

33

1 for oil and gas leasing. And then this red dashed area around  
2 the Not Available for Oil and Gas Leasing is available for  
3 leasing but no surface activity is allowed. Seismic could  
4 happen in that area, but no exploratory drilling, no permanent  
5 drilling, no facilities, nothing like that would be allowed in  
6 that No Surface Activity Zone. And this is what we're  
7 currently operating under. The rest of the area that's kind  
8 of in white is currently available for oil and gas leasing.  
9 And if we held another lease sale, people could lease lands in  
10 those areas because that was the decision from 1998.

34

11 So this is our Alternative A. And under ANILCA 810,  
12 we had to analyze this alternative to see whether or not  
13 instituting it would cause an impact to subsistence. The  
14 findings for Alternative A, the distinct finding from the end,  
15 is that this alternative would not significantly impact  
16 subsistence uses and needs. And that's because there would be  
17 potentially no reduction in populations of subsistence  
18 resources, if there was displacement, the displacement would  
19 be localized and temporary, and it was felt that access to  
20 resources by users would not be substantially limited.

35

21 Now, I should say that in coming up with these  
22 findings, in doing the evaluation for the ANILCA 810, the  
23 analysis relies on the analysis that's found in the main body  
24 of the document. So the Northeast Plan Amendment, as we all  
25 know, is this huge book that's this thick and several authors

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1 have contributed to it. Wildlife biologists, fisheries  
2 biologists, Steven Braund, who is the subsistence specialist  
3 who came and did some interviews here in town; these are the  
4 resource specialists whose analysis was then used to create  
5 the ANILCA 810 findings.

37

6 So here is Alternative B for the current Plan -- for  
7 the current Plan Amendment. And in this, the proposed action  
8 or use under this alternative would be to open an additional  
9 367,000 acres of land for oil and gas leasing. There would  
10 have -- that former No Surface Activity Zone as it existed  
11 before is removed. And the 79 stipulations from the 1998 Plan  
12 would be revised into performance-based stipulations similar  
13 to those that appear in the Northwest Plan. So as you can  
14 see, the area that would not be available for oil and gas  
15 leasing are these squares, these green squares at the top.  
16 The rest of the area would be open for oil and gas leasing,  
17 including Teshekpuk Lake, under this alternative.

38

18 When we put out the Draft EIS, we said that this was  
19 our Preferred Alternative at that time because this was the  
20 alternative that most closely resembled what the state office  
21 was thinking we wanted to do in the Northeast NPR-A.  
22 Currently, right now, the state office along with Bob  
23 Schneider in our office and maybe even people from Washington,  
24 D.C. are in the process of coming up with the Final Preferred  
25 Alternative. It will not look like -- well, it will look

1 similar to these alternatives because it has to at least be  
2 within the parameters of these three. But it doesn't look  
3 specifically like any one of these alternatives. All of the  
4 comments that we're receiving from these meetings are being  
5 used in creating the Final Preferred Alternative, so just to  
6 let you know with that.

39

7 Okay. Now, the ANILCA 810 finding for Alternative B  
8 was also that this alternative would not significantly impact  
9 subsistence uses and needs. It was the thought of the  
10 analysts within the main body of the document that there would  
11 not be a reduction in the populations of subsistence resources  
12 as a result of opening additional lands, that if there was  
13 displacement, yet again, it was going to be localized and  
14 temporary, and that access to resources by subsistence users  
15 would not be substantial, it would not be substantially  
16 limited. So I had to find that this alternative would not  
17 significantly impact subsistence uses and needs as well.

40

18 Now, just to talk a little bit about significant  
19 because that ends up being very important with regard to  
20 whether or not there would be a finding of there would be a  
21 significant impact to subsistence or there would not be a  
22 significant impact to subsistence. We actually have had  
23 significant defined for us by a court case that occurred in  
24 1983, it was Kunaknana, et al. vs. Watt, from the first ANILCA  
25 810 that was done for opening the NPR-A back in 1983. There

1 was a court case at that time and, as a result of this court  
2 case, significant was defined. And the guidance that we use  
3 is: will the action substantially reduce populations or their  
4 availability to subsistence users, or will the action  
5 substantially limit access by subsistence users to resources?  
6 And to quote the decision: significant restrictions are  
7 differentiated from insignificant restrictions by a process  
8 assessing whether the action undertaken will have no or a  
9 slight effect as opposed to a large or substantial effect.

41

10 So if the analysts within the main body of the  
11 document say things like, well, the impact to a caribou  
12 population would only be localized and temporary -- localized,  
13 meaning, you know, from point to point, given things, and  
14 temporary being, you know, a couple of weeks a year, then as a  
15 result, I have to say that that is not significant because  
16 it's slight as opposed to a substantial. So that's kind of  
17 how the ANILCA 810 works.

42

18 Okay, the last alternative that had to be analyzed  
19 under this Plan was Alternative C. And under Alternative C,  
20 all lands in the northeast area would be open for oil and gas  
21 leasing. So this is kind of the extreme. The former No  
22 Surface Activity Zone would be removed, not necessarily  
23 replaced with, because this requirement is already there, but  
24 there would be a requirement that there would be a three-year  
25 study of caribou movement before any facilities would be

1 permitted. And that's in the green, hashed area, all in the  
2 northern part of the northeast portion of the NPR-A, including  
3 Teshekpuk Lake. So there would be a -- there's a stipulation  
4 that states that a three-year study of caribou movements would  
5 have to be done before any oil and gas development would be  
6 allowed to be placed in this area.

43           Also, all of the lakes have buffers around them. The  
8 buffer around Fish and Judy Creek would remain. There's  
9 setback areas along here. And it's hard to tell but this is  
10 pink right here, the Colville River Special Area. That area  
11 would be deferred from leasing, but that's under all of the  
12 alternatives. Those are things that are under all of the  
13 alternatives. I've been talking about things that are -- the  
14 differences between the alternatives. And the main  
15 differences are how much land would be available for oil and  
16 gas leasing.

44           Under Alternative C, the finding for the ANILCA 810  
18 is, yet again, that this alternative would not significantly  
19 impact subsistence uses and needs. It was felt by the  
20 analysts that, because of having that three-year study on  
21 caribou, that that would help to minimize impacts, thus it  
22 would not be a significant impact. So there would be no  
23 reduction in populations of subsistence resources, there would  
24 only be localized and temporary displacement of resources, yet  
25 again, and access to resources by users would not be



1 substantially limited.

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2 Now, in addition to the three alternatives that are  
3 proposed, we also have to analyze the cumulative case. And  
4 the cumulative case is taking not only the actions that could  
5 occur in the northeast but also all other actions that could  
6 occur, including the state road, including NMS's (ph) off-  
7 shore oil and gas, including the northwest area of the NPR-A  
8 if development happens there, and all of these things. You  
9 have to take into consideration everything. And under the  
10 cumulative case, the ANILCA 810 found that this would  
11 significantly restrict subsistence uses when you take  
12 everything into consideration. If there was one problem that  
13 would occur that could cause something to the Teshekpuk Lake  
14 caribou herd, say, or whatever, it could significantly impact  
15 subsistence resources for the four communities that were  
16 analyzed under the ANILCA 810, which is Atqasuk, Anaktuvuk  
17 Pass, Barrow and Nuiqsut.

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18 So as a result of this finding that the cumulative  
19 case would significantly impact subsistence uses and needs, it  
20 was felt that the amount of activity in conjunction with the  
21 location of potential facilities as specified under this  
22 alternative could cause a substantial reduction in the  
23 population of subsistence resources, that the amount of  
24 activity could cause substantial displacement of resources,  
25 and that if there was a road into the area, that that could

1 cause an increase in hunters and competition for resources  
2 which would impact the users themselves.

47 3 As a result of having a positive finding -- when you  
4 have a finding of would significantly impact, it's considered  
5 positive even though -- not positive meaning good, positive  
6 just meaning yes, there is an impact. Then you go to the next  
7 step in the ANILCA 810 process. If we had not found that  
8 there would be a significant impact under any of the  
9 alternatives, we would not be holding hearings in any of the  
10 communities. But because we did find a significant impact to  
11 subsistence uses, that's the next step, is to hold these  
12 hearings. And that's why we're here.

48 13 So if there's a finding of would significantly  
14 restrict, which we did have in this case, then the authorized  
15 officer gets to make the decision as to whether or not they're  
16 going to proceed with the action. If they decide to go ahead  
17 with the action, to proceed with the action -- because at that  
18 point, the authorized officer could say, well, you know what,  
19 there was a finding of would significantly impact subsistence,  
20 let's not do this, let's not go ahead with the proposed  
21 action, we'll just maintain, you know, take the No Action  
22 Alternative. In this situation, in this case, the authorized  
23 officer did not make that decision. The decision was made to  
24 proceed with the action. Therefore, public hearings have to  
25 be held in all of the potentially affected communities. The

1 hearings are for the primary purpose of receiving comments or  
2 new information and obtaining recommendations for mitigation  
3 measures that would reduce impacts to subsistence. And this  
4 is most important because this is really where we actually  
5 have the ability to incorporate things into the Plan that  
6 could help to minimize impacts to subsistence.

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7 So once the hearings are held, after this hearing is  
8 completed, we will have conducted all of the hearings. If the  
9 finding of may significantly restrict subsistence remains,  
10 then the authorized officer can, once again, decide to  
11 prohibit the action or can continue with the action and  
12 proceed to the final determinations. And it's assumed that,  
13 after this hearing is made, we will -- the decision will be  
14 made to proceed with the action and not necessarily to  
15 prohibit the action.

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16 So the three final determinations that will end up  
17 having to be made after this is that, one, such a significant  
18 restriction of subsistence uses is necessary and consistent  
19 with sound management principles for the utilization of public  
20 lands. And it's important to remember that, in this case, the  
21 public lands that we're talking about is the National  
22 Petroleum Reserve - Alaska. So it was created with the  
23 intention of it being a petroleum reserve.

51

24 The second determination is that the proposed activity  
25 will involve the minimal amount of public lands necessary to

1 accomplish such use, and that reasonable steps will be taken  
2 to minimize adverse impacts upon subsistence uses and  
3 resources resulting from the action. After compliance with  
4 these final three determinations, the authorized officer can  
5 proceed with the action.

52 6 So here, yet again, are the two alternatives, not  
7 including the No Action Alternative. And what we're  
8 especially looking for are these potential mitigation measures  
9 that could be incorporated into the Final Preferred  
10 Alternative to reduce impacts to subsistence. And that's it.

11 Are there any questions?

53 12 MR. YOKEL: There will be a formal hearing  
13 (indiscernible -- voice fades).

54 14 MS. McINTOSH: Right. Right.

55 15 MR. YOKEL: So if you have any questions about  
16 what Stacy's presented, we can try to address those before we  
17 ask for your comments in the formal hearing. So this is kind  
18 of an informal discussion period, if you will.

56 19 MS. McINTOSH: Right.

57 20 MR. NUKAPIGAK: Does the community wish to  
21 support Alternative A that's been done and such by the  
22 democratic.....

58 23 MS. McINTOSH: Right. Well, since we -- since  
24 the BLM identified Alternative B as the alternative that most  
25 closely was aligned with what they felt should happen, and

1 since there have already been two opportunities for the  
2 authorized officer to go with Alternative A and he has turned  
3 them down, I would assume that Alternative A is not  
4 necessarily the alternative that the authorized officer wants  
5 to go with.

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6 MR. YOKE: I think, more importantly,  
7 remember that we're still talking about the Draft EIS here  
8 with its three alternatives, A, B and C. And we already held  
9 a public meeting in Nuiqsut last August on these three  
10 alternatives where it was very appropriate at that time to  
11 express a desire for one alternative versus another, or make  
12 any other comment about the Plan that you wished at the time.

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13 This is specifically a hearing on the ANILCA 810  
14 process. And the primary purpose for this is to hear comments  
15 that -- or provide new mitigation, new ways -- not necessarily  
16 -- yeah, you could say the best way to reduce impacts to  
17 subsistence resources is to chose Alternative A, but that's  
18 very similar to a comment that might be made during the public  
19 meeting. But if you can suggest ways that we can make small  
20 changes that will produce less impacts to subsistence uses,  
21 then that can be incorporated into the next determination or  
22 finding that Stacy has to make. And those suggestions may  
23 also be included in the mitigation package that comes along  
24 with whatever decision is made.

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25 MR. NUKAPIGAK: On the full-scale development,

1 the mitigation measures, the private, state and federal lands  
2 have different measures. And that uses like private  
3 mitigation -- when you have a Good Neighbor Policy and  
4 conflict avoidance agreement on land that -- having to set --  
5 five, six and seven are on federal land, in part. Different  
6 mitigation measures to cut that more critical habitat use area  
7 by (indiscernible - away from mic) hundred on the west side  
8 so that things happened. Mitigation measures with  
9 (indiscernible - away from mic). But that displacing the  
10 caribou and displacing -- and not utilizing that area for next  
11 30 to 50 years for the purpose of the national security.

62

12 MR. YOKEL: I'm not sure of the question.

63

13 MS. McINTOSH: Right.

64

14 MR. YOKEL: The Alpine Satellite Development  
15 Plan was created under the former Land Use Plan which is what  
16 we present today as Alternative A. And what we do here  
17 tonight and what we do in this Plan Amendment will not affect  
18 the Alpine Satellite Development Plan. That's pretty much a  
19 done process now, as far as the BLM's portion of it because we  
20 came out with our Record of Decision for CD-6 and seven a few  
21 weeks ago. Now we're looking at perhaps changing the overall  
22 Land Use Plan for the Northeast NPR-A, primarily to look at  
23 opening new lands to oil and gas leasing, and then also  
24 revising the mitigation package. But what we do tonight will  
25 not affect the Alpine Satellite Development Plan.

65 1 MS. McINTOSH: Are we ready to open it up to  
2 public comments?

66 3 UNIDENTIFIED SPEAKER: (Indiscernible - away  
4 from mic)

67 5 MR. YOKEL: Yeah, I wasn't sure if you were  
6 asking a question, Eli, or making a statement. So if it was a  
7 question and I didn't answer it, well, maybe you can restate  
8 the question.

68 9 MS. McINTOSH: Well, why don't we go ahead,  
10 then, and open it up for public comments? Steve has a  
11 statement that he needs to read.

69 12 I'm sorry, I didn't introduce all of the people here  
13 this evening. My name is Stacy McIntosh, I work with the  
14 Bureau of Land Management. I'm on the Arctic Team and we're  
15 primarily responsible for the land surface activities that  
16 take place in the NPR-A. The stuff that happens underground  
17 is the state office. Dave Yokel's our wildlife biologist.  
18 He's also on the Arctic Team. Steve Ellsworth works for ENSR  
19 which is the contractor who is preparing the Draft -- who  
20 prepared the Draft and is preparing the Final EIS for this  
21 Plan Amendment. And Kelley Hartlieb is our court reporter  
22 this evening. I'm sorry I didn't do that at the beginning.

70 23 MR. ELLSWORTH: All right, then. Good  
24 evening. For the record, it is now time to call the meeting  
25 to order. My name is, as Stacy said, Steve Ellsworth and I

1 will be conducting the meeting tonight as the Hearing Officer.

71

2 Tonight's meeting is a formal hearing and it's held  
3 for the express purpose of providing you, the public, the  
4 opportunity to make oral comments on the Bureau of Land  
5 Management's ANILCA 810 Analysis of the Draft Environmental  
6 Impact Statement/Integrated Activity Plan for the Northeast  
7 NPR-A. And what we're particularly interested in, as Stacy  
8 mentioned earlier, is any mitigation measures that you think  
9 should be incorporated in the Record of Decision in order to  
10 reduce any impacts to subsistence use.

72

11 Your comments tonight will be recorded and transcribed  
12 verbatim by the court reporter who tonight is Kelley Hartlieb.  
13 All of these comments that you provide will be compiled and  
14 analyzed and considered by the Bureau of Land Management in  
15 preparation of the Final Environmental Impact Statement which  
16 is due to be released in January, 2005. The hearing tonight  
17 is one of a series of hearings that we've also held in  
18 Anaktuvuk Pass, Atkasuk and Barrow as well as here in Nuiqsut.

73

19 And so that we accurately record what your comments  
20 are tonight, I will call the names of the folks that want to  
21 speak and, at that time, I would ask you to come up to the  
22 chair here in the front and use the microphone. When you do  
23 come up, please state your name and any organization that you  
24 are representing at this time and then go ahead and make your  
25 comment. And if you have any written comments with you, then



74 1 I would ask you to provide them with Kelley so that they can  
2 be included as part of the official record of this hearing.

75 3 So at this time I would -- we don't have anybody  
4 signed up to speak but we're now open for comment. And I  
5 would ask if there are -- is there anyone out there that would  
6 like to step forward and make an official comment?

76 7 STATEMENT BY ROSEMARY AHTUANGARUAK  
8 My name is Rosemary Ahtuanguaruak, I'm the Mayor of the  
9 City of Nuiqsut. I'm also a representative on the Inupiat  
10 Community of the Arctic Slope and I'm a member on the Federal  
11 Subsistence Advisory Board. I've lived in Nuiqsut for about  
12 19 years now. I learned to subsistence and harvest all of the  
13 resources here. I was taught by some of the elders here the  
14 different vegetation, plants, the birds and the -- how to  
15 collect eggs and how to cut up the caribou, dry the fish and  
16 do all of the different preparations with that. I've learned  
17 how to work with the marine mammals and the walrus, the seal,  
18 the whale. And all of these resources are very important to  
19 me and my family and our community.

77 20 The changes that will come will cause changes in our  
21 usage, it will cause changes in the future generations of  
22 usage. There is surface use changes that are going to change  
23 the reaction on the animals that come to us, migrating into  
24 these areas. Things that cause those changes will cause loss  
25 to our resources by areas that we can go and collect the eggs

1 in, the areas that we can hunt the birds in, the areas that we  
2 hunt the caribou in.

078  
Vegetation

3 When there are activities created with oil and gas  
4 development, it's very different than the activities we do for  
5 subsistence. The changes in transportation has caused a lot  
6 of trails and changes to the water accumulation in these  
7 areas. There's a lot more ponding in areas that have been  
8 used for ice roads and other activities. The ponding creates  
9 crevices in the land and it damages the vegetation. There's  
10 areas that were available for nesting and such that get under  
11 water after the usage occurs. There's increased concentration  
12 to activities from our community because there's diversion  
13 from other areas that are already being developed and are  
14 being explored and developed. So those increased  
15 concentrations from our village are now into the areas of this  
16 Northeast NPR-A.

79

17 We want to be able to provide for our families as our  
18 elders have taught us, with the resources that are why we're  
19 in this area and living upon the land. And we want to be able  
20 to have healthy resources. We want our families to be  
21 healthy. What comes into us with our subsistence goes into  
22 our bodies, into our future generations and it's very  
23 important to keep our resources healthy for our future  
24 generations. We want to be able to know that our food are  
25 safe and that our food is going to be here year after year in

1 spite of what activities come with these projects that are  
2 going to be coming.

080  
Monitoring

3 And it's very important to us that monitoring occurs,  
4 that we're involved in the monitoring, that our community  
5 members are taught and trained and able to be educated and be  
6 eligible to be employed in these activities, for us to support  
7 our families in our village. We're the closest community to  
8 these activities. We have not succeeded in having the most  
9 beneficial jobs and providing for our families year-round. We  
10 have very seasonal jobs and that makes it very difficult to  
11 retain our houses and pay our bills. That creates a lot of  
12 stress and strain in our families. And it's important that we  
13 reduce those changes, to keep our families, to be strong and  
14 continue into the future as we want to do.

081  
Pipeline

15 And things that will help to reduce these are looking  
16 at the pipeline routes, making sure that the pipeline is high  
17 enough that the caribou are able to migrate, that we're able  
18 to follow the migration and hunt without having to travel to  
19 an area that's designed to allow us to hunt through them. The  
20 cost of our travels come out of our pockets, it takes away  
21 from other things that our families need. And it's really  
22 important that the cost of trying to live our lifestyle is not  
23 taken from our families.

82

24 We're not asking to be given things, that we want to  
25 earn our lives like we've lived them. But now our lives

1 require money and jobs. And even though we want to be able to  
2 continue with our resources, we also want to be able to work  
3 and grow in the environment that we're forced to live in  
4 because of these changes and because of what's coming with  
5 these activities. Thank you.

83

6 MR. ELLSWORTH: Thank you. Would anyone else  
7 like to speak tonight?

8 STATEMENT BY ELI NUKAPIGAK

84

9 My name is Eli Nukapigak. (Speaks in Inupiaq)

85

10 First of all, I would like to say that even though we,  
11 the community, wish the Alternative A that had been -- that  
12 alternative was set in 1988 under a democratic process when  
13 they first tried to develop NPR-A. And it's something that's  
14 (indiscernible - mumbled speech) will work. You work hard on  
15 these and take time to work on them and put them in black and  
16 white. And these kind of processes take time. But now we're  
17 in a new age when they want to close our critical land use  
18 habitat area that we hunt from, our ancestors had hunted from.  
19 Good neighbor policy end (sic). (Indiscernible -- mumbled  
20 speech)

86

21 Three different faces; the state, federal and the  
22 private land are different, a different area of land. And I  
23 would like to follow up on that, with the CD-4 Development  
24 Plan, that if any -- everything that will happen in federal  
25 land, the policies are following through with the Good

1 Neighbor Policy. And a conflict avoidance agreement should be  
2 in place before any development phases happen in the federal  
3 land.

87 4 And I wish that even -- I wish that our way of lives  
5 -- I know we will be displaced. Our subsistence circle will  
6 be displaced when the last gas development phase happens.

88 7 On the land, off-shore, what will impact -- that a  
8 different impact might be happening. A social impact, an  
9 economic impact, our subsistence way of life are the ones that  
10 will hurt the village most because it's -- it is not coming to  
11 -- that will be the most impact because this -- like this  
12 (indiscernible - mumbled speech) that have been in place in  
13 early 70's.

89 14 And I wish that our way of life should not be  
15 displaced but in a way that we were communicating, helping  
16 each other, like Kuukpik Subsistence Oversight Panel working  
17 with the subsistence. And that panel to contact us, all the  
18 researching and all that, to help each area out with studies,  
19 to help analyze as what will happen and how you will change  
20 our way of life in the long-run. Thank you.

90 21 MR. ELLSWORTH: Well, would anybody else like  
22 to speak?

91 23 MR. ALLEN: Can I make a comment?

92 24 MR. ELLSWORTH: Sure, please.

25 STATEMENT BY JIM ALLEN

93

1           My name is Jim Allen. I used to tease my friends, I  
2   was named after a great, white man; a full-blooded Eskimo with  
3   a full-blooded white man's name. It was one of the first  
4   whalers I come on toward Wainwright. Anyway, I was born in  
5   Canada and (indiscernible - voice fades). Back, people used  
6   to go around, following caribou herd toward Canada. And my  
7   mom and dad were born Alaskan but us kids were born in Canada.

94

8           All my life I've been, you know, around people that do  
9   a lot of hunting. And I'm not a really good hunter myself,  
10   but what I heard from my dad was that, even when the dog team  
11   would make a trip, the caribou's trails would turn off from  
12   these trails. I guess all the animals are like that.

95

13           And I was listening to the TV the other day, and I  
14   think this came in from Canada side. And they were saying  
15   that though we were saying that the pipelines and oil fields  
16   are not affecting the caribous or our living animals up here,  
17   but they were also saying that even when the caribous would  
18   just see the pipe, I mean, anything moving, the animals would  
19   shy away from that. It's the only protection they got, is  
20   distance away from anything that could harm them.

96

21           And I guess what I'm trying to say is that our area of  
22   interest when we're whale hunting, it's just like it's not  
23   there all the time, it moves, migrating springtime or  
24   whatever. One -- like ducks; we don't get ducks year-round.  
25   And springtime and summer is the only time we get to get some

1 ducks. And even caribous, they migrate off and the only time  
2 we get to them is when they're here or when they're -- when  
3 we're there.

97

4 But it's not like we got this area here to plant  
5 different kind of plants that we get from canned stuff. I  
6 mean, up here, anyway. Down south, I know in Matanuska Valley  
7 I guess you probably heard that they grow the biggest plants,  
8 biggest vegetables like big -- I don't know what. We were  
9 raised up here where we wait for animals to come around and we  
10 go look for them.

98

11 But I mean, if you take a look at our hunting areas  
12 that are impacted by the pipelines and the oil companies -- I  
13 mean, we don't mind oil companies, I worked for them all the  
14 time, whenever I can. And I mean, like I said, I'm not a very  
15 good hunter but our way of life is not the same. I mean, we  
16 don't have to cut wood anymore. When I was growing up, that's  
17 all we did, going after woods, going after ice for water, food  
18 for our dogs. It's not the same as it used to be. But our  
19 way of getting animals is like it's not here and you try to  
20 get out there to them now and try -- they're not coming around  
21 that much. I mean, they probably do but not as much.

99

22 I remember when I was in Canada when we were kids;  
23 man, when those caribous were migrating, you even get tired of  
24 seeing caribous because they were everywhere you look. As far  
25 as you can see, there were caribous when they were migrating,

1 you know? I mean, just like you see things even when you  
2 close your eyes. But another time, in the wintertime when  
3 they're not migrating, it's just like it becomes desolate,  
4 nobody around, just frozen, frozen tundra, frozen ice, frozen  
5 everything that you see.

100 6 But I know a lot of people that love to hunt and  
7 whale. They were all worried about, well, what are we going  
8 to do if all these hunting grounds are not having all those  
9 animals that we used to have? Even just to get gasoline in  
10 town, \$4.75 a gallon, you can't hardly go very far. I got \$20  
11 the other day, I was getting low on my gas and I said, how  
12 many gallons can I get out of this 20 bucks? Well, I'll give  
13 you four gallons for 19 bucks, I'll give you a dollar change.  
14 I mean, it's not like it used to be. To go out hunting,  
15 you've got to have more than four gallons. And we're close;  
16 we're right in the middle of an oil field and we have to pay  
17 the highest price on gasoline. Well, that's the way it is I  
18 guess.

101 19 Like I said, I worked around oil fields before the  
20 pipeline. I was working and I grew up when the DEW lines, or  
21 Distant Early Warning lines, started. And I used to go and  
22 visit DEW lines and I used to ride around. And I even learned  
23 how to operate new equipment, learned how to operate dozers  
24 and trucks. And I mean, this is where I got my education.  
25 And I was really fortunate that I got to a good job, joined



1 the union, The International Union of Operating Engineers.  
2 Been operating now where -- I've been with the union now for  
3 35 years.

102

4 But even still, you remember good old days when my mom  
5 used to make real good soup, good food. But to get the good  
6 food, you've got to go quite a ways now because they're not  
7 around. But life has changed for me quite a bit. No more  
8 getting woods, hunting -- I mean, looking for woods and  
9 getting ice chips for water. Things have changed quite a bit  
10 for me.

103

11 But I know that our hunting grounds in Nuiqsut here is  
12 surround- -- practically surrounded by pipes or will be in a  
13 few more years. And those caribous shy away from the  
14 pipelines. We just have to go a little bit further. I guess  
15 that's all I got to say. Thank you.

104

16 MR. ELLSWORTH: Thank you very much.

17 STATEMENT BY DELLA TUKLE

105

18 My name is Della Tukle and I'm a subsistence hunter.  
19 And each year I go subsistence to survive. Today I use  
20 subsistence to survive. Every time the (Inupiaq word) come, I  
21 walk out to (Inupiaq word) with limited means, no snow machine  
22 to go out there to go get what I need to eat. Today, being  
23 with limited means of not working, I'm -- today I fall back on  
24 subsistence to eat. And that's what I will do every single  
25 day. To feed my family, I need the subsistence.

106

1           And now more impact on the animals. Now year-in,  
2 year-out, I have to think, I have to try a hundred times more  
3 harder to go walk to go get them ducks, to go get caribou,  
4 anything to survive. And it's hard to wonder what are you  
5 going to eat tomorrow, what are you going to eat the next day?  
6 When you're not working, you have nobody to fall back on and  
7 all you depend on is subsistence. And today I do, I depend on  
8 subsistence: fish, (Inupiaq word), caribou, moose,  
9 everything. It's a struggle for limited people with limited  
10 means to go out and use subsistence to survive. And  
11 subsistence is a big part of my life now because that's all I  
12 have to fall back on.

107

13           And hearing that this impact is going to be more and  
14 more and more each year and each time is telling me I have to  
15 try 100% more harder to get food on my table. And I just keep  
16 wondering, how am I going to survive if these animals are  
17 being impacted? What is it going to take for me to make a  
18 supper? What is it going to take to find something to eat?  
19 And the animals that I depend on are being impacted and these  
20 are things that I depend on daily. And I just want you guys  
21 to know that subsistence is a big thing in my life and that's  
22 what I depend on each day to survive. Thank you.

108

23           MR. ELLSWORTH: Thank you.

24           STATEMENT BY FREDERICK TUKLE

109

25           My name is Frederick Tukle, Sr. And I have five

1 generations of family history on the Colville River.  
2 Basically, I've lived half my life in Barrow and about half my  
3 life here in Nuiqsut.

4           When I think about this, these numerous oil activities  
5 happening in the Teshekpuk area, one of the first things that  
6 come to my mind is I would recommend to you guys here that you  
7 guys go find some of the people in Barrow that has first-hand  
8 knowledge of this area. There's some very knowledgeable  
9 elders over there that watch this area. Basically, they have  
10 like 100 years of history. And when I keep watching these  
11 meetings being conducted in Barrow, I've noticed that a lot of  
12 these people that has first-hand experience are not present.  
13 And then I would recommend real highly that you guys go find  
14 these people. And I think these are the ones that are our --  
15 the best people that could help you guys and us with regards  
16 to minimizing the impacts, with regards to these animals.

17           And then when I keep looking at these short-term  
18 studies being conducted along the Colville, including in this  
19 area over here that you guys are talking about, I have to  
20 think about the food chain. And I would really highly  
21 recommend that this food chain -- with regards to the animals  
22 and the land, I just know that if one of these species are  
23 affected or killed or the foods that they're eating are  
24 destroyed, it will start a chain reaction with the rest of the  
25 animals. These animals coexist with each other. And then

110  
Planning

111

1 when one of these is affected or killed, then the rest of the  
2 animals, to my understanding, are as good as dead. And that's  
3 my recommendation, that long-term studies be conducted in that  
4 manner.

112

5 A lot of times when I watch, sometimes I got to be  
6 concerned about these meetings. A lot of the most  
7 knowledgeable people are not heard. I notice that the ones  
8 with first-hand experience, that these ones are not -- like  
9 with the Federal Subsistence Board or representatives or  
10 something like that. But I would recommend that when you guys  
11 weigh this, what these advisory boards and these  
12 representatives are recommending, that you put the same amount  
13 of weight of some of these elders that has first-hand  
14 experience, that really knows what they're looking at.

113

15 And then when I start looking at the numerous lakes  
16 that are in that area, I just know from speaking to the elders  
17 that there's underground rivers connecting these lake areas.  
18 And then if a spill should occur, I have to wonder, you know,  
19 where these contaminants are going to; are they going to reach  
20 us through underground? And that you guys watch out for --  
21 watch at and look at a little bit underneath, too. Because  
22 those -- I think these are real -- these emissions that are  
23 happening from these facilities, they're dangerous and has  
24 potential to kill us, including these animals.

114

25 And then I would just recommend real long-term studies

1 and go to those people that has first-hand experience in that  
2 area. And I believe those ones are the best people that are  
3 able to help us, not just in those meetings but go find those  
4 people. A lot of times when I come to these meetings -- like  
5 I'll go to one of my elders, Abraham Woods, I haven't seen  
6 nobody -- I haven't seen his voice be heard, this man that I'm  
7 talking about here. And then just from experience and  
8 watching the last 40 years of these meetings happening, these  
9 are the people that need to be heard. And then those are the  
10 recommendations I have. Thank you.

115

11 MS. MCINTOSH: Thank you.

116

12 MR. ELLSWORTH: Thank you very much.

117

13 MR. ELLSWORTH: Well, I think that will  
14 probably conclude the official part of the meeting, then,  
15 for.....

118

16 MS. AHTUANGARUAK: Uh.....

119

17 MR. ELLSWORTH: Would you like to speak?

120

18 MS. AHTUANGARUAK: Can I give a comment from  
19 ICAS?

20 STATEMENT BY ROSEMARY AHTUANGARUAK ON BEHALF OF ICAS

121  
Monitoring

21 The issue from ICAS is that BLM should supplement the  
22 ICAS PL 93-638 contract to monitor and work with BLM and oil  
23 and gas companies, that the Inupiat should be monitoring the  
24 work during the winter for EPA and subsistence resource  
25 information that will be valuable for us to report affected

121 (Cont'd)  
Monitoring

1 renewable resources and subsistence hunters while in the  
2 subsistence arena of Nuiqsut and Barrow, but not limited to  
3 these villages. The request is for 65,000 for staff persons  
4 for ICAS and at least two monitoring agents who are ICAS  
5 members on every company doing work with NPR-A. This way we  
6 will keep a record of activities that will and may have  
7 delayed effects on our hunting area per each species that may  
8 be and will be affected by virtue of displacement or  
9 alteration of land, et cetera.

122

10 This was requested to be added for our comments  
11 tonight from Arnold Brower, the president of ICAS. And I'm  
12 also a representative for that board.

123

13 MR. ELLSWORTH: Okay.

124

14 MS. McINTOSH: Thank you.

125

15 MR. ELLSWORTH: Could you leave the written  
16 copy with us or.....

126

17 MS. AHTUANGARUAK: Yeah, I got it off my e-  
18 mail. It's got my other notes on it but.....

127

19 MS. McINTOSH: Thank you.

128

20 MR. ELLSWORTH: Well, then we -- if nobody has  
21 anything further, we will close the official part of the  
22 meeting.

129

23 UNIDENTIFIED SPEAKER: (Indiscernible - away  
24 from mic)

130

25 MR. ELLSWORTH: But we will be here for a

1 little longer if there's something that you want to discuss.  
2 But I believe Kelley can turn off the recorder since the  
3 official part of the meeting is over.

4 (Off record)

5 \* \* \* END OF PROCEEDINGS \* \* \*

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## C E R T I F I C A T E

UNITED STATES OF AMERICA       )  
                                          ) s.  
STATE OF ALASKA                    )

I, Kelley Hartlieb, Notary Public in and for the State of Alaska and Reporter with Metro Court Reporting, do hereby certify:

THAT the foregoing pages numbered 03 through 39 contain a full, true and correct transcript of the ANILCA 810 Public Hearing before the Bureau of Land Management, was taken by me and transcribed by me.

THAT the Transcript has been prepared at the request of ENSR International, 1835 South Bragaw Street, Suite 490, Anchorage, Alaska.

DATED at Anchorage, Alaska this 28th day of December, 2004.

SIGNED AND CERTIFIED BY:

---

Kelley Hartlieb  
Notary Public in and for Alaska  
My Commission Expires: 04-12-07